

# NOTICE

## CONSENT ORDER AND JUDGEMENT

On the following pages you will find the Consent Order and Judgment issued on April 25, 2002 against VistaBank, Ltd. and Carl H. Lane by the Fulton County Superior Court in Civil Action No. 2001DV45945.

Background: On April 5, 2001, the Georgia Department of Banking and Finance issued a Cease & Desist Order to VistaBank, Ltd. and Global Commerce Company, N.A. (Vista/Global) (see pages 8 and 9). The Order was issued for Vista/Global to cease doing business as a bank in Georgia, and to cease acting as a fiduciary in this state, pursuant to O.C.G.A. 7-1-91, 7-1-242, 7-1-5 and Article 5 and Article 5A of Title 7.

On June 28, 2001, Vista/Global, by its president Carl Lane, agreed to abide by the above mentioned Orders. Consequently, neither Global Commerce Company, N.A. (a self-styled business trust with no relation to a national association) nor VistaBank, Ltd. May act as a fiduciary in this state or as a bank or representative of a bank in this state. Neither entity is authorized by the state of Georgia to do a banking or fiduciary business in this state\*.

*\*Global Commerce Bank which is located at 5150 Buford Highway, Doraville, GA, a state-chartered banking institution, is in no way related to the entity mentioned in the above notice.*

IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

DEPARTMENT OF BANKING AND  
FINANCE,

Plaintiff,

v.

VISTABANK, LTD. and CARL H.  
LANE,

Defendants.

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Civil Action No. 2001CV45945

FILED IN OPEN COURT, THIS THE  
25 DAY OF April 20 02  
JUDGE ROWLAND W. BARNES

**CONSENT ORDER AND JUDGMENT**

Plaintiff filed this case pursuant to the authority vested in Plaintiff by the Financial Institutions Code of Georgia. Defendants have filed a timely Answer. Plaintiff and Defendants have reached a resolution of all of the Plaintiff's claims against Defendants in this action and agree to the terms of this Order.

**THE PARTIES STIPULATE TO THE FOLLOWING FACTS:**

Venue and personal jurisdiction are appropriate as to the Defendants in this Court. Defendant Carl H. Lane is the president of Defendant VistaBank, Ltd. Plaintiff has not licensed Defendant VistaBank, Ltd. as an international representative office or a domestic international banking facility. On April 5, 2001, the Plaintiff issued to the Defendants and others an Order to Cease and Desist. A true and correct copy of the Order to Cease and Desist is attached to this Order as Exhibit "A" and is incorporated by reference. The Order to Cease and Desist directed the Defendants to, among other things, cease using banking nomenclature, cease conducting a banking business in this State, and cease maintaining an unlicensed or unregistered office in this State. The Order to Cease and

Desist is a final Order. After the entry of the Cease and Desist Order, Defendants represented to Plaintiff that they would "strictly abide" by the terms of the Cease and Desist Order.

After the Cease and Desist Order became final and Defendants agreed to "strictly abide" by its terms, Defendant VistaBank, Ltd. issued two standby letters of credit in the total amount of \$20,000,000.00 to Ken-Yi Group (USA), Inc. Defendant Carl H. Lane signed both of the standby letters of credit. Each standby letter of credit provides that it "is payable at the U.S. Branch counter at the maturity date of August 2<sup>nd</sup>, 2002. Our U.S. office will confirm this standby letter of credit at 400 Colony Square, Suite 200, Atlanta, Georgia."

THE PARTIES STIPULATE TO CONCLUSIONS OF LAW as follows:

The issuance of the two standby letters of credit by Defendants violates the terms of the Order to Cease and Desist issued by the Plaintiff.

The issuance of a letter of credit is engaging in the business of banking. Defendants engaged in the business of banking by issuing the standby letters of credit in violation of O.C.G.A. § 7-1-241(a). Defendant VistaBank, Ltd. is not exempt from the provisions of O.C.G.A. § 7-1-241(a) as it is not a state bank, a national bank, a credit union, a check seller, a licensed international banking agency, a licensed international banking corporation, a building and loan association, or a savings and loan association.

The standby letters of credit issued by Defendants violated the prohibition in O.C.G.A. § 7-1-243 as the letters of credit contained numerous instances of banking nomenclature.

Defendants violated O.C.G.A. §§ 7-1-713 & 7-1-721 by maintaining an office in Georgia even though Defendant VistaBank, Ltd. was not licensed or registered with the Plaintiff.

It is hereby ORDERED as follows:

1. The Court grants declaratory relief finding that the issuance of the two standby letters of credit violated the Order to Cease and Desist as Defendants were engaging in the banking business, were using banking nomenclature, and were operating an unlicensed or unregistered office in this State.

2. The Court grants declaratory relief finding that the issuance of the two standby letters of credit violated the Financial Institutions Code of Georgia as Defendants were engaging in the banking business, were using banking nomenclature, and were operating an unlicensed or unregistered office in this State even though they were not licensed by Plaintiff.

3) Defendant VistaBank, Ltd., its officers, agents and employees are hereby forever enjoined from violating the Order to Cease and Desist issued by the Plaintiff on April 5, 2001. Defendant VistaBank, Ltd., its officers, agents and employees are hereby forever enjoined from violating any provisions of the Financial Institutions Code of Georgia, O.C.G.A. § 7-1-1 et seq. Defendant VistaBank, Ltd., its officers, agents and employees are hereby forever enjoined from violating O.C.G.A. § 7-1-241 by engaging in the business of banking in or from this State unless licensed by the Plaintiff. Defendant VistaBank, Ltd., its officers, agents and employees are hereby forever enjoined from violating O.C.G.A. § 7-1-243 by using banking nomenclature indicating that it does business as a bank in or from this State unless licensed by the Plaintiff. This injunction

against the use of banking nomenclature includes all uses including, but not limited to, written, electronic, and oral representations. Defendant VistaBank, Ltd., its officers, agents and employees are hereby forever enjoined from violating O.C.G.A. § 7-1-713 by maintaining an office in this State unless licensed by the Plaintiff. Defendant VistaBank, Ltd., its officers, agents and employees are hereby forever enjoined from violating O.C.G.A. § 7-1-721 by maintaining an office in this State unless registered with the Plaintiff. The injunction against maintaining an office in this State, includes, but is not limited to, the operation of the office at 400 Colony Square, Suite 200, 1201 Peachtree Street, Atlanta, Georgia 30361 for any and all functions or duties related to VistaBank, Ltd.


4) Defendant Carl H. Lane is hereby forever enjoined from violating the Order to Cease and Desist issued by the Plaintiff on April 5, 2001. Defendant Carl H. Lane is hereby forever enjoined from violating any provisions of the Financial Institutions Code of Georgia, O.C.G.A. § 7-1-1 et seq. Defendant Carl H. Lane is hereby forever enjoined from violating O.C.G.A. § 7-1-241 by engaging in the business of banking in or from this State unless licensed by the Plaintiff, employed by an entity licensed by Plaintiff, or otherwise permitted under O.C.G.A. § 7-1-241. Defendant Carl H. Lane is hereby forever enjoined from violating O.C.G.A. § 7-1-243 by using banking nomenclature indicating that he or any entity for which he is an officer, agent, or employee for does business as a bank in or from this State unless licensed by the Plaintiff or employed by an entity licensed by Plaintiff. This injunction against the use of banking nomenclature includes all uses including, but not limited to, written, electronic, and oral representations. Defendant Carl H. Lane is hereby forever enjoined from violating

O.C.G.A. § 7-1-713 by maintaining an office in this State for a bank, international representative office, domestic international banking facility, or other financial institution unless licensed by the Plaintiff or employed by an entity licensed by Plaintiff. Defendant Carl H. Lane is hereby forever enjoined from violating O.C.G.A. § 7-1-721 by maintaining an office in this State for a bank, international representative office, domestic international banking facility, or other financial institution unless registered with the Plaintiff or employed by an entity registered with the Plaintiff. The injunction against maintaining an office, includes, but is not limited to, the operation of the office at 400 Colony Square, Suite 200, 1201 Peachtree Street, Atlanta, Georgia 30361 for any and all functions and duties related to VistaBank, Ltd.

5. Judgment is hereby entered in favor of Plaintiff and against Defendants jointly and severally in the total amount of \$25,000.00, consisting of an award for civil penalties. Defendant shall remit \$25,000.00 to the Plaintiff's attorney at the below address via postal money order, certified check, or bank cashier's check within 10 (ten) days of the filing of this Order.

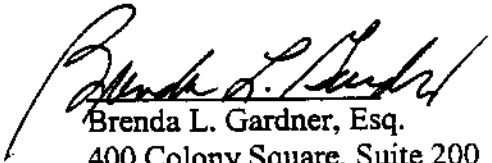
6. The terms of this Order may be enforced by filing a motion for contempt in the Superior Court of Fulton County or by any other action deemed appropriate by the Plaintiff.

SO ORDERED, this 25 day of April, 2002.

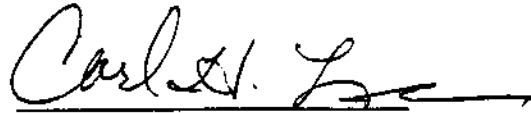
  
ROWLAND W. BARNES, Judge  
Superior Court of Fulton County

(signatures continued on next page)

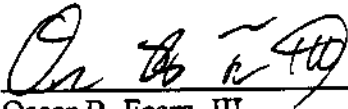
Consented to by:



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400 Colony Square, Suite 200  
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(404) 870-9096  
Ga. Bar No. 284025  
Attorney for Defendants



Carl H. Lane  
President of VistaBank, Ltd.  
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1201 Peachtree Street  
Atlanta, Georgia 30361



Oscar B. Fears, III  
40 Capitol Square  
Atlanta, Georgia 30334  
(404) 656-3303  
Ga. Bar No. 257020  
Attorney for Plaintiff

## **ORDER TO CEASE AND DESIST**

The Department of Banking and Finance of the State of Georgia has the authority pursuant to O.C.G.A. Section 7-1-91(d) and O.C.G.A. Section 7-1-5 to issue a Cease and Desist Order to any financial institution which has violated any law of this state or any order or regulation of the department or to any financial institution which is conducting business in an unsafe or unauthorized manner. On March 8, 2001, this Department sent a letter to Mr. Carl Lane of VistaBank LTD, informing the bank of these concerns and requesting immediate action. no significant response was received.

VistaBank LTD and Global Commerce Company, NA are in violation of Georgia statute and conducting a business in an unauthorized manner as follows:

- VistaBank LTD and Global Commerce Company, NA are both companies which, according to documentation obtained by the Georgia Department of Banking and Finance, are providing financial services ~~at~~ at least one address in Georgia, 400 Colony Square, Suite 200, Atlanta, GA 30361. This documentation makes the use of the term "Bank" in the title of this organization, citing a Georgia address, which is in violation of O.C.G.A. Section 7-1-243.
- Neither VistaBank LTD nor Global Commerce Company, NA, are either a state chartered bank, a nationally chartered bank or a thrift institution authorized to do business in the State of Georgia. If VistaBank LTD is a bank chartered and located in a foreign country, as has been indicated orally to the Department, this bank has not been authorized pursuant to O.C.G.A. Section 7-1-713 to conduct business in Georgia as an international agency or representative office.
- VistaBank LTD is not authorized pursuant to O.C.G.A. Section 7-1-242 to act lawfully as a corporate fiduciary in the State of Georgia. Documentation has been provided to the Department which reflects that VistaBank LTD reportedly established an escrow account, which would not be a permitted activity for a company not authorized to conduct a banking business in this state and which does not meet one of the corporate fiduciary exceptions contained under O.C.G.A. Section 7-1-242. There have also been allegations of monies received and not accounted for.

Therefore the Georgia Department of Banking and Finance, pursuant to O.C.G.A. Section 7-1-91 does hereby Order VistaBank LTD, Global Commerce Company, NA, its successors and assigns and the officers and directors thereof, to Cease and Desist violations of Georgia Law and the conduct of business in an unsafe or unauthorized manner and to take the following actions:

- 1) VistaBank LTD shall immediately cease indicating in any marketing materials, signage, correspondence, or legal documentation that it is a bank, that it is authorized to do business in Georgia and shall cease using the name "Bank", "Banking

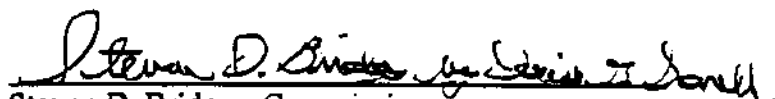


Company", "Banker", "Banking House" or any similar terminology in these materials, in reference to activities conducted in the State of Georgia.

- 2) VistaBank LTD and Global Commerce Company, NA shall not conduct a banking business, unless it demonstrates that it is authorized to conduct a banking business in accordance with the provisions of federal or state law. O.C.G.A. Section 7-1-241 specifies that only a state chartered bank, a national bank, a federally chartered thrift, credit union or other agency otherwise authorized by Georgia Law may do a banking business in this state.
- 3) VistaBank LTD and Global Commerce Company, NA shall not provide financial products or services to the citizens of this State by any delivery system, to include the Internet, or other electronic access to financial products or services or alternative methods of delivery which differ from geographically based banking without the authorization of the Georgia Department of Banking and Finance, pursuant to O.C.G.A. Section 7-1-241(c).
- 4) VistaBank LTD and Global Commerce Company, NA shall not take funds or act as a fiduciary in this State, including the maintenance of funds in an escrow account, in accordance with O.C.G.A. Section 7-1-242, nor shall these entities hold themselves out as authorized to conduct fiduciary activities in this state in correspondence, account documentation or other written representations.
- 5) If VistaBank LTD, is a bank chartered or licensed in a foreign country, this foreign corporation shall not transact a banking business, maintain an office in this State for carrying on such business or any part thereof without the authorization of this activity by the Department in accordance with Section 7-1-713 of the Code of Georgia.
- 6) Representatives of VistaBank LTD and Global Commerce, NA shall respond to the Department by April 16, 2001, indicating the actions taken regarding compliance with the provisions of this Order. The Department may take further legal action through the State Attorney General as authorized by law.

The above provisions are effective on the date of issuance of this Order.

4-5-01  
Date

  
Steven D. Bridges, Commissioner  
State of Georgia Department of Banking and Finance